

CHAPTER 89**(SB 71)**

AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.950 is amended to read as follows:

As used in KRS 6.955 to 6.975, unless the context otherwise requires:

- (1) "Fiscal note" means a realistic statement of the estimated effect on expenditures or revenue of local government in implementing or complying with any proposed act of the General Assembly whether filed in regular session or prefiled during the interim,~~[regulation,]~~ order, or administrative law.
- (2) "Local government" means cities, counties or urban-county governments.
- (3) "State mandate" means any state constitutional, legislative, or executive law or order which requires any local government to establish, expand, or modify its activities, programs, or structure in such a way as to affect expenditures from local revenues.

Section 2. KRS 6.955 is amended to read as follows:

- (1) No bill or resolution which relates to any aspect of local government or any service provided thereby shall be voted on by either chamber of the General Assembly unless a fiscal note has been prepared and attached to the bill pursuant to KRS 6.960, except that, if in the chamber in which the bill is being considered, two-thirds (2/3) of the members elected vote to waive the fiscal note requirement, no note shall be required. The fiscal note waiver shall be certified by the clerk of the chamber in which the bill is being considered, and such certification shall be attached to the bill. Although waived in one chamber, a fiscal note shall be required when the bill goes to the other chamber unless a majority of the members elected to such chamber vote to waive the fiscal note requirement.
- (2) ~~An~~~~[No]~~ executive~~[regulation or]~~ order which relates to any aspect of local government or any service provided thereby shall **not** be~~[promulgated or]~~ issued unless a fiscal note has been prepared and made a part of the~~[regulation or]~~ order pursuant to KRS 6.960.

Section 3. KRS 6.960 is amended to read as follows:

- (1) The director of the Legislative Research Commission shall have the fiscal note prepared by the Legislative Research Commission or by other departments or agencies of state government for any bill introduced before the General Assembly which relates to any aspect of local government or any service provided thereby. Departments or agencies of state government so requested by the director shall comply with the request within seven (7) working days of receipt. The fiscal note shall be filed with the clerk in the chamber of the General Assembly in which the bill was introduced and attached to each copy of the bill.
- (2) The secretary of finance shall have the fiscal note prepared by the Finance and Administration Cabinet or by other departments or agencies of state government for any~~[regulation or]~~ order promulgated by an executive department or agency which relates to any aspect of local government or any service provided thereby. The director of the Legislative Research Commission shall determine the form of such notes. The secretary may request the advice or assistance of the Legislative Research Commission in the preparation of the fiscal note. The fiscal note shall be attached to each copy of the~~[regulation or]~~ order.

Section 4. KRS 6.965 is amended to read as follows:

- (1) A fiscal note shall state whether the bill~~[, regulation]~~ or order is determined to be a state mandate. Such determination shall be made by the director of the Legislative Research Commission except as provided by subsection (2) of this section. If the bill~~[, regulation]~~ or order is a state mandate, the note shall contain an estimate of the effect the law will have on expenditures or revenues of local government for the first full fiscal year the law is to be in effect.
- (2) The director, at his discretion, may seek a certification from the Attorney General on the question of whether a bill~~[, regulation]~~ or order constitutes a state mandate. The Attorney General shall, within seven (7) working days from receipt of the request, certify to the director that the bill~~[, regulation]~~ or order is or is not a state mandate.
- (3) If any bill~~[, regulation]~~ or order is amended after the preparation of the fiscal note, it shall be resubmitted to the person responsible for preparation of the note who shall reevaluate the bill~~[, regulation]~~ or order as amended and change the fiscal note in accordance therewith.
- (4) Copies of the fiscal note shall be furnished by the Legislative Research Commission to any local official upon written request.

Section 5. KRS 13A.050 is amended to read as follows:

- (1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.
- (2)
 - (a) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.
 - (b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.
 - (c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:
 1. Review the text and accompanying statements of the administrative regulation; and
 2. Notify the regulations compiler in writing of errors.
- (3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations~~[and notices of intent required by the provisions of KRS 13A.015,]~~ received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the workday which immediately precedes the Saturday, Sunday, or holiday.
- (4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky

Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.

- (5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.
- (6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

Section 6. KRS 13A.080 is amended to read as follows:

Each issue of the Administrative Register shall contain a notice describing the regulation review process and the methods by which the public may comment upon administrative regulations, including the procedure for contacting agencies about public hearings *and the public comment period*.

Section 7. KRS 13A.125 is amended to read as follows:

Prior to the effective date of a new administrative regulation, or an amended administrative regulation that has been filed with the Legislative Research Commission, an administrative body shall not file subsequent amendments to that administrative regulation unless:

- (1) Failure to do so would result in a loss of accreditation, or federal or state funds, or the imposition of another state or federal penalty; or
- (2) A court decision, or a federal or state mandate requires immediate implementation of the amendment; or
- (3) Conditions warrant the filing of an emergency administrative regulation; or
- (4) The amendments are made:
 - (a) After a public hearing *or public comment period* as provided by KRS 13A.280; or
 - (b) At a subcommittee meeting during which the administrative regulation is reviewed as provided by KRS 13A.290.

Section 8. KRS 13A.190 is amended to read as follows:

- (1) An emergency administrative regulation is one that:
 - (a) Must be placed into effect immediately in order to:
 1. Meet an imminent threat to public health, safety, or welfare;
 2. Prevent a loss of federal or state funds;
 3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or
 4. Protect human health and the environment; and

- (b) 1. Is temporary in nature and will expire as provided in this section; or
 2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.
- (2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.
 - (3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.
 - (b) If an administrative body extends the ~~public comment period as provided by KRS 13A.270(1), or extends the~~ time for filing a statement of consideration as provided by **subsection (2)(b) of Section 14 of this Act** ~~[KRS 13A.280(3)]~~, an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of **subsection (2)(b) of Section 14 of this Act** ~~[KRS 13A.270(1) or 13A.280(3), as applicable]~~.
 - (4) An emergency administrative regulation shall not be **filed** ~~renewed~~ for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.
 - (5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.
 - (6) Each emergency administrative regulation shall contain a statement of:
 - (a) The nature of the emergency;
 - (b) The reasons why an ordinary administrative regulation is not sufficient;
 - (c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;
 - (d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and
 - (e) If applicable, the explanation required by subsection (5) of this section.
 - (7) An administrative body shall attach the:
 - (a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and
 - (b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

- (8) (a) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing **and public comment period** pursuant to KRS 13A.270(1). The public hearing **and public comment period** information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.
- (b) ***If an emergency administrative regulation will be replaced by an ordinary administrative regulation:***
1. ***The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and***
 2. ***A public hearing and public comment period shall not be required for the emergency administrative regulation.***
- (9) The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."
- (10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.
- (11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.
- (b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.
- (b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.
- (c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.

Section 9. KRS 13A.210 is amended to read as follows:

- (1) When promulgating administrative regulations and reviewing existing ones, administrative bodies shall, whenever possible, tier their administrative regulations to reduce disproportionate impacts on certain classes of regulated entities and to avoid regulating entities that do not contribute significantly to the problem the administrative regulation was designed to address. The tiers, however, must be based upon reasonable criteria and uniformly applied to an entire class. Administrative bodies ***shall***~~may~~ use any number of

tiers ~~that they feel~~ will solve most *efficiently and* effectively the problem the administrative regulation addresses. A written statement ~~shall~~~~must~~ be submitted to the Legislative Research Commission explaining why tiering was or was not used.

- (2) Administrative bodies may use, but shall not be limited to, the following methods of tiering administrative regulations:
 - (a) Reduce or modify substantive regulatory requirements;
 - (b) Eliminate some requirements entirely;
 - (c) Simplify and reduce reporting and recordkeeping requirements;
 - (d) Provide exemptions from reporting and recordkeeping requirements;
 - (e) Reduce the frequency of inspections;
 - (f) Provide exemptions from inspections and other compliance activities;
 - (g) Delay compliance timetables;~~and~~
 - (h) Reduce or modify fine schedules for noncompliance; *and*
 - (i) *Address and alleviate special problems of individuals and small businesses in complying with an administrative regulation.*
- (3) When tiering regulatory requirements, administrative bodies may use, but shall not be limited to, size and nonsize variables. Size variables include number of citizens, number of employees, level of operating revenues, level of assets, and market shares. Nonsize variables include degree of risk posed to humans, technological and economic ability to comply, geographic locations, and level of federal funding.
- (4) When modifying tiers, administrative bodies shall monitor, but shall not be limited to, the following variables:
 - (a) Changing demographic characteristics;
 - (b) Changes in the composition of the work force;
 - (c) Changes in the inflation rate requiring revisions of dollar-denominated tiers;
 - (d) Changes in market concentration and segmentation;
 - (e) Advances in technology; and
 - (f) Changes in legislation.
- (5) When tiering administrative regulations for small business concerns, administrative bodies shall use the small business size standards as defined in Section 632 of the Federal Small Business Act and Part 121 of Title Thirteen of the Code of Federal Regulations.

Section 10. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) An administrative body shall file with the regulations compiler:
 - (a) The original and five (5) copies of an administrative regulation; and
 - (b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

- (2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.
- (3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.
- (4) The format of an administrative regulation shall be as follows:
 - (a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced ***through the last line of the body of the administrative regulation***. The first page shall have a two (2) inch top margin. ~~Subsequent pages shall have one (1) inch top, bottom, and side margins.~~ The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;
 - (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;
 - (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After ***Comments*** ~~Hearing~~)," ~~or~~ "(Repealer)," "***(New Emergency Administrative Regulation)***," "***(Emergency Amendment)***," or "***(Emergency Repealer)***," whichever is applicable;
 - (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
 - (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and
 - (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).

- (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). **Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.).**
- (6) After the complete text of an administrative regulation, ***on the following page***, the administrative body shall include the following information:
- (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;
 - (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;
 - (c) Information relating to public hearings as required by KRS 13A.160 and 13A.270 ***and the public comment period required by Section 13 of this Act***; and
 - (d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
 1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
 2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
 3. Answer questions relating to the administrative regulation.
- (7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:
- (a) The signature shall be placed on a signature line; and
 - (b) The name and title of the person signing shall be typed immediately beneath the signature line.
- Section 11. KRS 13A.230 is amended to read as follows:
- (1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:
 - (a) Regulatory impact analysis ***as required by KRS 13A.240***;
 - (b) Tiering statement ***as required by Section 9 of this Act***;

- (c) ***Fiscal note as required by Section 12 of this Act***~~[Local mandate impact statement]~~, if the administrative regulation relates to any aspect of local government or any service provided thereby;
 - (d) Federal mandate comparison, if applicable, ***as required by KRS 13A.245***; and
 - (e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.
- (2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 12. KRS 13A.250 is amended to read as follows:

- (1) Each administrative body which promulgates an administrative regulation which relates to any aspect of local government or any service provided thereby shall prepare and submit with the administrative regulation a fiscal note.
- (2) The~~[form of the]~~ fiscal note shall ***state***:
 - (a) ***The number of the administrative regulation;***
 - (b) ***The name and telephone number of the contact person of the administrative body;***
 - (c) ***Whether the administrative regulation relates to any aspect of a local government, including any service provided by that local government;***
 - (d) ***The unit, part, or division of local government the administrative regulation will affect;***
 - (e) ***In detail, the aspect or service of local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation; and***
 - (f) ***The estimated effect of the administrative regulation on the expenditures and revenues of a local government for the first full year the administrative regulation will be in effect. If specific dollar estimates cannot be determined, the administrative body shall provide a brief narrative to explain the fiscal impact of the***~~[be determined by the Commission by]~~ administrative regulation.
- (3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 13. KRS 13A.270 is amended to read as follows:

- (1) (a) ***In addition to the public comment period required***~~[Except as provided]~~ by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (5)~~[(4)]~~ of this section, hold a hearing, open to the public, on the administrative regulation.
- (b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.
- (c) ***The***~~[If an]~~ administrative body ***shall accept written comments regarding the administrative regulation for a period of thirty (30) days following the publication of***

the administrative regulation in the Administrative Register. If the thirtieth day of the comment period falls on a Saturday, Sunday, or holiday, the last day of the comment period shall be the workday following the Saturday, Sunday, or holiday~~[anticipates a significant number of public comments, it may extend the public comment period for up to fifteen (15) days by notifying the commission in writing on or before 12 noon of the scheduled public hearing date].~~

- (2) Each administrative regulation shall state:
- (a) The place, time, and date of the scheduled public hearing;
 - (b) The manner in which interested persons shall submit their:
 1. Notification of attending the public hearing; and
 2. Written comments;
 - (c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;~~and~~
 - (d) *The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and*
 - (e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.
- (3) (a) *An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first.*
- (b) *A copy of the administrative regulation as filed, and all attachments required by subsection (1) of Section 11 of this Act, shall be mailed:*
1. *To every person who has filed this form with the administrative body;*
 2. *Within five (5) working days after the date the administrative regulation is filed with the Commission; and*
 3. *With a cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.*
- (4) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.
- ~~(5)(4)~~ The administrative body shall immediately notify the regulations compiler by telephone and by letter if:
- (a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; ~~and~~~~or~~
 - (b) No written *comments have been received by the close of the last day of the public comment period*~~[notice of intent to attend the public hearing is received by the~~

~~administrative body at least five (5) workdays before the scheduled hearing; it has cancelled the public hearing; and it has received written or oral statements that shall be considered}.~~

- (6) (a) ~~{(5)}~~ Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.
- (b) *Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.*
- (7) ~~{(6)}~~ Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (4) ~~{(3)}~~ of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.
- (8) ~~{(7)}~~ Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 14. KRS 13A.280 is amended to read as follows:

- (1) Following the *last day of the comment period* ~~{scheduled hearing date}~~, the administrative body shall give consideration to all ~~{written and oral}~~ comments received *at the public hearing and during the comment period* ~~{by adjournment of the scheduled public hearing, or by the close of business on the scheduled public hearing date if the public hearing was not held}~~.
- (2) (a) *Except as provided in paragraph (b) of this subsection*, the administrative body shall ~~{then}~~ file with the commission on or before 12 noon, eastern time, on the fifteenth day following the *last day of the comment period* ~~{scheduled hearing date}~~ the statement of consideration relating to the administrative regulation.
- (b) *If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon, eastern time, of the fifteenth day following the last day of the comment period. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the last day of the comment period.*
- (3) (a) ~~{Except as provided by paragraph (b) of this subsection,}~~ If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b) ~~{(e)}~~ of this subsection to the regulations compiler by 12 noon, eastern time, on the *applicable deadline specified in subsection (2) of this section* ~~{fifteenth day following the hearing}~~.

- (b) ~~If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the public hearing date the items specified in paragraph (c) of this subsection.~~
- (c) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from **comments received at the public hearing and during the comment period**~~[the hearing, or resulting from written or oral comments received at the hearing or otherwise]~~;
2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and
3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.
- (4) (a) *If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.*
- (b) *If the statement of consideration is not received by the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.*
- (5) The format for the statement of consideration shall be as follows:
- (a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;
- (b) The **first page of the** statement of consideration shall have a two (2) inch top margin;
- (c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing **and comment period** and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After **Comments**~~[Hearing]~~" or "Amended After **Comments**~~[Hearing]~~," whichever is applicable;
- (d) If a hearing has been held **or written comments received**, the heading is to be followed by:
1. A statement setting out the date, time and place of the hearing;
 2. A list of those **persons who attended**~~[attending]~~ the hearing or who~~[have]~~ submitted~~[written]~~ comments and the organization, agency, or other entity represented, if applicable; and
 3. The name and title of the representative of the promulgating administrative body;

- (c) ~~If a hearing has not been held, but written or oral comments have been received:~~
1. ~~A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and~~
 2. ~~The name and title of the representative of the promulgating administrative body responding to the written or oral comments;~~
- (f) Following the general information, the promulgating administrative body shall summarize the *comments received at the public hearing and during the comment period* ~~[written and oral comments received]~~ and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:
1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
 2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;
- (f)(g) Following the summary and comments, the promulgating administrative body shall:
1. Summarize the statement and the action taken by the administrative body as a result of *comments received at the public hearing and during the comment period; and*
 2. *If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by subsection (2)(c) and (d) of Section 17 of this Act;*
- (g)(h) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and
- (h)(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.
- ~~(5) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.~~
- ~~(b) If the statement of consideration is not forwarded to the regulations compiler at least ten (10) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.]~~
- (6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The

administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

- (7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 15. KRS 13A.290 is amended to read as follows:

- (1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within **sixty (60)**~~forty five (45)~~ days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.
- (2) The meetings shall be open to the public.
- (3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.
- (4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.
- (6)
 - (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the **administrative regulation**~~[matter]~~ to:
 1. A subcommittee of appropriate jurisdiction over the subject matter **of the administrative regulation**; or
 2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter **of the administrative regulation**.
 - (b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the **administrative regulation**~~[matter]~~ is assigned shall notify the regulations compiler:
 1. Of the date, time, and place of the meeting at which it will consider the **administrative regulation**~~[matter]~~; or
 2. That it will not meet to consider the **administrative regulation**~~[matter]~~.
- (7) Within thirty (30) days of the assignment, the subcommittee ~~may~~**shall** hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday

following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

- (8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.
- (9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:
 - (a) Meeting separately; or
 - (b) Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.
- (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.
 - (b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 16. KRS 13A.300 is amended to read as follows:

- (1) The administrative body which has promulgated an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by the subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation.
- (2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.
- ~~(3) Except as provided in subsections (1) and (2) of this section, neither the promulgating administrative body, the Commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.~~
- ~~(4)~~ An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 17. KRS 13A.320 is amended to read as follows:

- (1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an

administrative regulation at a subcommittee meeting with the consent of the administrative body.

- (b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:
 - 1. Considered at the public hearing; or
 - 2. Raised pursuant to a ~~written~~ comment received by the administrative body *at the public hearing or during the public comment period* pursuant to KRS 13A.280(1); or
 - 3. Raised by the subcommittee.
 - (c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended.
 - (d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:
 - 1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and (k); and
 - 2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.
 - (e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.
- (2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:
- (a) Amendments offered by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body.
 - (b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. The letter shall:
 - 1. Identify the administrative body;
 - 2. State the number and title of the administrative regulation;
 - 3. Be dated;
 - 4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee; and
 - 5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.
 - (c) On separate lines, the amendment shall be identified by the number of the:
 - 1. Page;

2. Section, subsection, paragraph, subparagraph, *clause, or subclause*, as appropriate; and
 3. Line.
- (d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.
2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.
 3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.
 4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.
- (3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the ***Administrative Regulation Review*** Subcommittee meeting at which the amendment will be considered.

Section 18. KRS 158.6471 is amended to read as follows:

- (1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register" or within *sixty (60)*~~forty-five (45)~~ days of the receipt of a statement of consideration, the Education Assessment and Accountability Review Subcommittee shall meet to review the administrative regulation.
- (2) The meetings shall be open to the public.
- (3) Public notice of the time, date, and place of the subcommittee meeting shall be given in The Administrative Register.
- (4) A representative of the Department of Education shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the Department of Education is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (5) Following the meeting and before the next regularly scheduled meeting of the Legislative Research Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy shall be sent to the Department of Education. The subcommittee's findings shall be published in The Administrative Register.
- (6) (a) After review by the subcommittee, the Commission shall at its next regularly scheduled meeting assign the matter as appropriate to the Interim Joint Committee on

Education, the Senate standing Education Committee, the House standing Education Committee, or the Senate and the House standing committees meeting jointly.

- (b) Upon notification of the assignment by the Commission, the Education Committee shall notify the regulations compiler:
 - 1. Of the date, time, and place of the meeting at which it will consider the matter; or
 - 2. That it will not meet to consider the matter.
- (7) Within thirty (30) days of the assignment, the Education Committee, when it plans to consider an administrative regulation, shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The committee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.
- (8) The Department of Education shall comply with subsection (4) of this section.
- (9) The Education Committee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the *Administrative Regulation Review* Subcommittee ~~as provided in KRS 13A.030(2) and (3)~~.
- (10) (a) Upon adjournment of the meeting at which the Education Committee has considered an administrative regulation pursuant to subsection (7) of this section, the committee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.
- (b) Following the meeting and before the next regularly scheduled meeting of the Commission, the committee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy shall be sent to the Department of Education. The committee's findings shall be published in The Administrative Register.

Section 19. KRS 194B.050 is amended to read as follows:

- (1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall ~~adopt,~~ administer~~;~~ and enforce throughout the Commonwealth all applicable state laws and *promulgate* all administrative regulations *authorized by*~~necessary under~~ applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.
- (2) The secretary shall utilize the Council for Families and Children to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not

delegate this authority.~~[All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.]~~

- (3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars (\$100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

Section 20. KRS 199.420 is amended to read as follows:

- (1) The secretary *may promulgate*~~[shall have the power and authority to adopt, amend, or rescind those]~~ administrative regulations *authorized by statute*~~[that the secretary deems necessary or suitable]~~ for the proper administration of the functions of the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies.~~[These administrative regulations shall become effective in the manner and at the time prescribed by the secretary.]~~
- (2) In the administration of KRS 199.420 to 199.670, the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.
- (3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42, 45, and 64, to appoint, fix the compensation, and prescribe the duties and powers of any officers and employees as are necessary in the performance of the secretary's duties under KRS 199.420 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any person so appointed that power and authority as the secretary deems reasonable and proper for the effective administration of KRS 199.420 to 199.670.
- (4) The secretary shall have the power and authority to elect coverage for the workers in the cabinet, under the provisions of KRS Chapter 341, and may elect coverage for these workers under the workers' compensation law of this state. In the event the coverage is elected the payment of contributions under KRS Chapter 341 and premiums under the workers' compensation law shall be deemed a proper cost of administration.
- (5) The salaries and expenses of the secretary and the secretary's staff shall be considered a proper cost of administration and charged to the funds allocated to the Cabinet for Families and Children.

Section 21. The following KRS sections are repealed:

13A.015 Notice of intent to promulgate an administrative regulation -- Public hearing.

13A.016 KRS 13A.015 inapplicable to administrative regulation promulgated only for drafting or format requirements.

13A.017 Consideration of comments from public hearing -- Post-hearing filings or notification.

Section 22. A person who has previously filed the form required by KRS 13A.015(4) with an administrative body shall be deemed to have fulfilled the requirement established by subsection (3) of Section 13 of this Act. Upon the effective date of this Act, the administrative

body shall include any such person in the provisions established pursuant to subsection (3) of Section 13 of this Act.

Section 23. (1) Notices of intent filed prior to the effective date of this Act shall expire on the effective date of this Act.

(2) Emergency administrative regulations in effect prior to the effective date of this Act shall remain in effect as provided by subsection (3) of Section 8 of this Act.

Approved March 18, 2003